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Report of the Secretary-General on children and armed conflict in Burundi

Summary

The present report, prepared pursuant to the provisions of Security Council resolution 1612 (2005), is presented to the Council as the second country report on the situation of children and armed conflict in Burundi. It covers the period from September 2006 to August 2007, and illustrates the situation of children affected by the armed conflict in Burundi since my previous report (S/2006/851 and Corr.1) and the subsequent conclusions and recommendations of the Working Group on children and armed conflict (S/2007/92).

The report notes that, following the signing of the Comprehensive Ceasefire Agreement, the peacebuilding process faces significant challenges, including persistent tensions between the Government of Burundi and opposition parties and limited progress in the human rights situation and the implementation of the Joint Verification and Monitoring Mechanism. The report notes that reports of cases of rape and sexual violence, abduction and detention of children, and child recruitment by the Forces nationales de libération increased during the period. The report emphasizes that, despite improvements in security, a climate of impunity for violators of the rights of children persists in Burundi.

The report calls upon all relevant parties to take action to fully implement the Comprehensive Ceasefire Agreement and cease the recruitment of children. It also urges relevant authorities to act to redress impunity for crimes against children through the rigorous and timely investigation and prosecution of cases. The report commends the Government of Burundi for progress made on issues addressed in the first report, including the demobilization and reintegration of children detained in the Randa camp, improvement in the training of security forces, and ensuring protection and access to justice of victims of sexual and gender-based violence. The report encourages the Government of Burundi to consider the protection of children in transitional justice mechanisms and all provisions of security sector reform provided for in recent peace agreements, and to facilitate the adoption of an integrated child protection system.

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I. Introduction

1. The present report, prepared pursuant to the provisions of Security Council resolution 1612 (2005), covers the period from September 2006 to August 2007, and illustrates the situation of children affected by the armed conflict in Burundi since my previous report (S/2006/851 and Corr.1) and the subsequent conclusions and recommendations of the Working Group on children and armed conflict (S/2007/92). The report outlines trends in serious child rights violations and highlights the progress made in programmatic responses to child rights violations, as well as challenges to and opportunities for ensuring effective protection of affected children in Burundi. The report has been prepared following a consultative process between the United Nations Integrated Office in Burundi (BINUB), the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Burundi, and the United Nations Children's Fund (UNICEF), with the assistance of other United Nations agencies and non-governmental organizations.

II. Evolution of the political, military and social situation in Burundi: opportunities for and challenges to the protection of child rights within the peacebuilding process

2. The signing of the Comprehensive Ceasefire Agreement between the Government of Burundi and the armed group Palipehutu-Forces nationales de libération (FNL) led by Agathon Rwasa on 7 September 2006 was a decisive step in the peace process in Burundi. However, its implementation remains difficult owing to persisting disagreements among the parties. The Agreement, which was the outcome of determined efforts of regional States united under the auspices of the Regional Initiative for Peace in Burundi, addresses a number of issues including the integration of FNL ex-combatants into the Burundian National Defence Forces (FDN) and security forces, the participation of FNL elements in the institutions of the country and the rapid demobilization and reintegration of children associated with this armed group into their respective families and communities. Under the Comprehensive Ceasefire Agreement, the Joint Verification and Monitoring Mechanism was established to oversee the demobilization of FNL combatants.

3. The signing of the Agreement was followed at first by a significant improvement in the security situation, characterized notably by a decrease both in the number of abuses perpetrated by armed groups and in the number of alleged FNL militants arrested by the National Defence Forces and the National Police of Burundi.

4. However, the peacebuilding process is still confronted with significant challenges. A rapid improvement in the living conditions of the population is required, as most people have been impoverished by years of conflict and now look forward to benefiting from the dividends of peace.

5. The return to peace, though still fragile, has enabled the Government of Burundi and its partners to focus on structural reforms to strengthen peace and resume development. In October 2006, the Peacebuilding Commission confirmed Burundi's eligibility for assistance of the Peacebuilding Fund. In this regard, the Fund granted the Government of Burundi a sum of $35 million within the framework of a national peacebuilding priority plan, which focuses on key areas

such as good governance, the rule of law in defence and security, justice, human rights, reconciliation, the fight against impunity and land issues.

6. In order to assist the Government during this transition period, the United Nations peacekeeping mission, the United Nations Operation in Burundi (ONUB), was replaced in January 2007 by BINUB, which is mandated to assist the Government of Burundi in its peace consolidation efforts.

7. However, despite some progress achieved in the area of security, a number of major challenges remain. The implementation of the Comprehensive Ceasefire Agreement, signed by the Government of Burundi and Palipehutu-FNL (Rwasa) in September 2006, has been considerably delayed and the proceedings of the Joint Verification and Monitoring Mechanism have been suspended on several occasions owing to numerous disagreements between the Government of Burundi and the FNL armed group. As a result, negotiations within the joint liaison team have been stalled over issues such as immunity and the release of war prisoners, the ongoing detention of Palipehutu-FNL militants, ongoing recruitment by FNL of combatants, including child combatants, and forcing civilians to provide sustenance to FNL members. The situation reached a critical stage in July 2007, as all the members of Palipehutu-FNL (Rwasa) withdrew from the Joint Verification and Monitoring Mechanism and the implementation process.

8. On the political front, the period under review was characterized by tensions within the ruling party, the National Council for the Defence of Democracy-Front for the Defence of Democracy (CNDD-FDD). The dismissal of Hussein Radjabu, the former Chairman of CNDD-FDD, in February 2007, and his subsequent arrest in May 2007, illustrates the volatility of the political situation in Burundi. Relationships between the Government of Burundi and the main opposition parties such as the Front for Democracy in Burundi and the Union for National Progress have been characterized by persistent tensions. However, the resumption of dialogue between the President of Burundi and opposition leaders in August 2007 is a positive sign that indicates that a peaceful solution to the current difficulties is near, as is the appointment of a new Cabinet in November 2007.

III. Serious child rights violations: trend analysis on the situation of child rights in Burundi

9. Despite some improvements in the security situation immediately following the signing of the Comprehensive Ceasefire Agreement, little progress was made in the area of human rights during the reporting period. The National Police of Burundi, the National Defence Forces and the National Intelligence Service continue to be the main perpetrators of various cases of child rights violations such as torture, physical abuse, arbitrary arrest and illegal detention. The number of cases of sexual violence has significantly increased, committed both by security and National Defence Forces personnel. A significant increase in rape and grave sexual violence, abductions and illegal detention of children and child recruitment has been observed. Indeed, an upsurge in cases of rape and other grave sexual violence perpetrated by elements of the national security forces and members of Palipehutu-FNL was observed during the period under review. An increase in the number of cases of abduction and detention of children for their alleged association with FNL

was also reported, and several reports of ongoing child recruitment by the FNL movement were submitted.

10. However, the Government of Burundi has reaffirmed its commitment to combating child rights violations perpetrated by national forces, as illustrated by both the growing number of police officers and soldiers convicted for human rights abuses and by the increasing number of requests by the Government of Burundi to the United Nations for training sessions for its security forces on human rights, including child rights and child protection issues.

Killing and maiming

11. There have been fewer reported cases of killing and maiming since the previous report of the Secretary-General. This positive development is a logical consequence of the peace negotiation process, particularly the signing of the Comprehensive Ceasefire Agreement between the Government of Burundi and Palipehutu-FNL in September 2006. However, children continue to be killed by both explosions of grenades and gunfire exchange by men in uniform associated with both national security forces and FNL armed groups. Although a growing number of perpetrators of crimes against children are brought to justice, many of them have yet to be prosecuted.

12. Unlike the previous reporting period, when the majority of children were killed or maimed in fighting between Government forces and armed groups, most of the killings reported in the reporting period under review occurred during looting operations led by men in uniform, such as those described below. Moreover, children were killed in grenade attacks in 80 per cent of the cases, a worrisome fact that reveals the mass proliferation of these and other light weapons.

13. On 11 December 2006, five children were killed in Taba commune, Gitega province, when a grenade was thrown into their house by three soldiers of the National Defence Forces. The suspects were arrested and have been detained at the Gitega prison, where they are currently awaiting a trial.

14. On the night of 17 to 18 December 2006, a child was maimed by a grenade and gunshots were fired by elements of the National Police of Burundi, in Kanyosha, in Bujumbura Mairie province.

15. Although attacks by FNL combatants have declined significantly, civilians and children continue to suffer during sporadic attacks. Thus, on the night of 31 March to 1 April 2007, a baby was killed in a gun battle in Ntega commune, in Kirundo province, during an attack led by alleged FNL elements.

Recruitment and use of children

16. Compared to the previous period, the recruitment and use of children by FNL elements has increased from 67 reported cases to 85 reported cases. This trend is unexpected, as no major fighting occurred between the Government and FNL armed groups during the reporting period. The increase in child recruitment is most likely linked to a decision by FNL leaders to rapidly inflate the number of their combatants in order to be able to claim higher allowances during the demobilization process provided for in the 2006 Comprehensive Ceasefire Agreement. Indeed, out

of the 85 cases of recruitment reported during the period under review, one third were reported within the three-month period immediately following the signing of the Ceasefire Agreement

17. In January 2007, the two wings of Palipehutu-FNL (Rwasa) and its smaller now defunct Jean Bosco (Gatayeri) breakaway faction resumed the recruitment of children in Gitega, Ruyigi, Mwaro and Makamba provinces. Recruiters reportedly promised new recruits various benefits in the future demobilization process.

18. Some children were also asked to pay to be recruited voluntarily into FNL. Recruiters asked children for a sum of money generally ranging from 2,500 to 15,000 Burundian Francs (BIF) ($2.50-$15) and promised that they would receive financial benefits once demobilized. On 30 November 2006, two boys aged 13 and 14 were arrested by soldiers from the Muhafu military position in the commune of Giharo, in Rutana province. They were transferred on 15 December 2006 to the Makamba Judicial Police prison and charged with association with recruiting agents allegedly affiliated with FNL (Rwasa), who reportedly promised the children a sum of BIF 500,000 ($500) after completion of the demobilization process. The two boys were released on 9 January 2007. In April and May 2007 alone, more than 48 cases of recruitment of schoolchildren into FNL (Rwasa) and Jean Bosco (Gatayeri) groups were reported in Rumonge commune in Bururi province, as well as in Marangara and Gashikanwa communes in Ngozi province.

19. Reports indicate, however, that children have also been forcibly recruited by elements of armed groups affiliated with both FNL (Rwasa) and the now defunct FNL-Jean Bosco (Gatayeri) breakaway faction. These groups reportedly recruited more than 60 children from April to July 2007, essentially in Ngozi province. This spike in recruitment is most likely related to the implementation difficulties encountered in solidifying the Comprehensive Ceasefire Agreement and the subsequent withdrawal of the members of the FNL delegation from the Joint Verification and Monitoring Mechanism in that month. Several reports indicate that children continue to be associated with Palipehutu-FNL armed groups.

20. Reports were also received in February 2007 of children used to perform various tasks and minor services within the National Defence Forces of the First Military Region in Bujumbura Rural province. Following formal notification from BINUB to the commander of this Region, no further cases of children associated with the National Defence Forces have been reported.

21. Some progress was made in criminalizing the recruitment of children, as illustrated by the increasing number of arrests of suspected or known recruiters that occurred during the reporting period. On 28 July 2007, two alleged recruiting agents from Palipehutu-FNL (Rwasa) were arrested by Internal Security Police officers in Butezi commune and detained in Butezi prison before being transferred to the judicial police prison in Ruyigi. Their cases are pending.

Rape and grave sexual violence

22. As mentioned, there has been an alarming increase in the number of cases of rape and grave sexual violence, with an 80 per cent rise in the number of reported cases compared to that reported in the previous report of the Secretary-General.

23. During the period under review 31 cases of rape and grave sexual violence against children were reported, as opposed to 16 cases reported during the previous reporting period. This trend seems to echo the increase in sexual violence nationwide, the brunt of which is borne by children, especially girls. Particularly alarming is the fact that the perpetrators of most of the reported abuses were affiliated with the national security forces, including the Burundi National Police, the Internal Security Police, the National Defence Forces and the National Intelligence Service. Although FNL elements were also responsible for similar violations, the number of reported cases of rape and grave sexual violence perpetrated by national security forces has increased in comparison with the previous reporting period, while that of FNL has not.

24. Despite some efforts made by the Burundian authorities to arrest and prosecute the perpetrators of sexual violence, impunity continues to prevail and victims seldom take legal action for fear of reprisal, especially when the aggressor is affiliated with the national security forces. Thus, informal settlements are often concluded either directly between the victims' families and those responsible for rape and grave sexual violence, or sometimes with the mediation of traditional community institutions such as the Bashingantahe.

25. The reluctance of many witnesses or parents of children who were victims of sexual violence to report cases stems in large part from the inadequate response to these crimes by police and judicial authorities. For example, on 8 December 2006, two 16-year-old girls from Mutimbuzi commune, in Bujumbura Rural province, were raped in their house, allegedly by a policeman and a soldier. After they filed a complaint, the victims were transported to the military camp to identify their aggressors who had been sent on leave in the meantime. The chief of the commune said that he would verify, in collaboration with police and military authorities, whether the suspects could be identified by their victims on their return from leave. On 2 January 2007, the victims reportedly identified one of their aggressors, who was an environmental police officer (posted in the Ruzizi national park). However, to date no charges have been made or other appropriate action taken against him.

26. On 3 April 2007, a six-year-old girl was raped by a solider of the 411th battalion of the National Defence Forces located in Giteranyi camp in Muyinga province. The victim was given medical assistance, but no formal complaint was filed against the soldier.

27. On 19 February 2007, a 16-year-old girl was beaten up and raped by FNL elements in Nyanza-Lac commune, in Makamba province. The perpetrators have yet to be arrested. On some occasions, however, appropriate actions have been taken to ensure prosecution of the perpetrator.

28. On 6 January 2007, a four-year-old girl was raped by a soldier of the National Defence Forces based at the Bandagura military position in a site for displaced persons in Mugongomanga commune, in Bujumbura Rural province. The victim was transported to Bujumbura in order to receive medical assistance the following day, while the suspect was arrested and detained at the Internal Security Police prison. The case was referred to the Military Prosecutor and to the National Defence Forces Liaison Officer, and the soldier was taken into custody. The victim's father filed a formal complaint with the Department of the Military Prosecutor and trial is pending.

Abduction and illegal detention of children

29. During the reporting period, cases of abduction and illegal detention of children increased, in contravention of international standards. This trend is owed to the prison transfer of many children accused of association with FNL armed groups who had been detained in military camps from September to December 2006. Despite some positive developments, such as the release of most of the children detained on similar charges in March 2007, reports indicate that children are still being held in pretrial detention, mainly because of their alleged participation in and association with armed groups. In addition to unsuitable conditions of detention, many challenges remain regarding the circumstances in which children have been released and their subsequent reintegration into their families and communities.

30. On 12 January 2007, elements of Palipehutu-FNL (Rwasa) from the Gashinge military position abducted a man and his family after he was accused of denouncing an FNL combatant in Kanyosha commune, Bujumbura Rural province. The man and his three children were released three days later, further to an intervention of a police superintendent based in Bujumbura Rural province.

31. On 25 January 2007, United Nations observers reported the presence of 52 children in Mpimba central prison in Bujumbura Mairie province, while only 34 children were listed on the official record of the prison. All children were accused of association with armed groups and some had reportedly been detained for more than a year without any legal assistance. The majority of these children were released in March 2007 prior to the visit of my Special Representative for Children and Armed Conflict.

32. The presence of a 12-year-old child allegedly associated with FNL in the Internal Security Police prison in Bujumbura Rural was reported to BINUB on 16 February 2007. The child was arrested on 24 October 2006 and had been previously detained for two-and-a-half months in a military camp, before he was transferred to the Internal Security Police prison. Advocacy by several child protection organizations contributed to his eventual release.

Attacks on schools and hospitals

33. No attack on schools or hospitals by Government forces or armed groups was reported during the period under review.

Denial of humanitarian access

34. No major incident of denial of humanitarian access was reported. Improvements in the security situation resulted in easier access to prisons and detention centres compared to the previous reporting period.

IV. Dialogue and action plans

Release and reintegration of children associated with armed groups

35. During the Burundian conflict, all parties — both armed forces and groups — recruited thousands of children as combatants and for other support tasks. Since August 2005, hundreds of children accused of association with Palipehutu-FNL have been arrested and imprisoned.

36. Under the Comprehensive Ceasefire Agreement, signed between the Government of Burundi and the armed group Palipehutu-FNL (Rwasa) on 7 September 2006, the Joint Verification and Monitoring Mechanism was established in order to supervise the cantonment and demobilization of combatants with child protection expertise provided by BINUB child protection and UNICEF. Within this framework, an executive secretariat of the national commission on disarmament, demobilization, reinsertion and reintegration has been tasked with facilitating the demobilization and reintegration of children associated with armed groups with the support of UNICEF. However, owing to significant delays in the application of the Comprehensive Ceasefire Agreement, the Mechanism has not yet proven to be effective.

Dialogue and advocacy

37. During the period under consideration, UNICEF and BINUB advocated for the protection of child rights with various national authorities, with a particular emphasis on serious child rights violations related to sexual abuse perpetrated by armed forces and groups.

38. As recommended in my previous report, my Special Representative for Children and Armed Conflict visited Burundi from 13 to 17 March 2007 to assess the progress made in preventing grave violations of child rights since the Security Council Working Group on children and armed conflict considered my previous report in November 2006. During her visit, the Special Representative paid special attention to the issues of children associated with armed groups, child victims of sexual violence and children in detention owing to their alleged association with armed groups. In my first report, it was estimated that around 100 children were detained for their alleged association with the FNL armed groups. It is encouraging to note that most children imprisoned for association with armed groups have been released. It is, however, crucial that these children be given adequate assistance to facilitate their reintegration into their families and communities. Lastly, much effort is required to address the situation of children accused of participation in armed groups who are still detained in prisons in Burundi.

V. Follow-up on the recommendations of the Security Council Working Group on children and armed conflict and programmatic response to serious violations of child rights

39. The recommendations included in my first report on the situation of children and armed conflict in Burundi (S/2006/851 and Corr.1), as well as the subsequent conclusions and recommendations of the Security Council Working Group on

children and armed conflict (S/2007/92) highlighted a number of priority issues to address in order to improve the protection of the rights of children affected by armed conflict in Burundi. They stressed the need for strategies to release, disarm, demobilize and reintegrate all children who remain associated with armed groups or who were detained in military camps such as the Randa camp after having been demobilized from armed groups. They also sought to encourage the improvement of training of police and other security forces in order to prevent violations and abuses of the rights of children, fight sexual and other gender-based violence against children, fight against impunity, and ensure protection and access to justice of victims of such violence. The progress made on these respective issues illustrates the commitment of the Government of Burundi to preventing and combating serious violations of child rights with the support of the United Nations. However, more still needs to be done, especially regarding the implementation of measures by the Government of Burundi in order to fight against the impunity of those who have committed gross child rights violations.

Release and reintegration of children associated with armed forces

40. In response to the recommendations of the Security Council Working Group and the action undertaken by BINUB and UNICEF as a response, children were released from detention in the Government-run camp at Randa. On 20 November 2006, 26 children aged 14 to 18 years, who had been accused of association with Palipehutu-FNL (Rwasa) and detained at the Randa military camp since April 2006, were transferred to a demobilization and reinsertion centre for FNL ex-combatants in Gitega, and were subsequently released in March 2007. After receiving medical and psychosocial assistance and vocational training through a local non-governmental organization supported by UNICEF, these children were reintegrated into their families and communities.

41. Moreover, within its programme for the disarmament, demobilization, reintegration and reinsertion of children associated with armed groups, UNICEF has been supporting skills-training of children formerly associated with armed groups in Kayanza, Ngozi, Muyinga and Kirundo provinces. Advocacy activities for peaceful cohabitation have also been carried out in collaboration with communities in those provinces in order to support the reintegration of released children who were previously associated with armed groups.

42. In March 2007, more than 65 children who had been detained in Mpimba prison for their alleged association with Palipehutu-FNL were also released. However, while progress has been made in releasing children accused of association with armed groups, special attention needs to be given to the sustainable reintegration and reinsertion of these children.

Protection of child rights and legal reform

43. In 1990, Burundi signed and ratified the Convention on the Rights of the Child. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was signed on 13 November 2001 and ratified on 28 January 2005. However, national legislation on the criminalization of recruitment and use of children in armed conflict has yet to be adopted.

44. In order to reconcile the Burundi legal system with its commitments to children, the Government of Burundi revised its Criminal Code and Criminal Procedure Code, with the assistance of the United Nations. Following advocacy efforts led by UNICEF and OHCHR in Burundi, the preliminary draft of the revised Penal Code and the draft amendments to the revised Criminal Procedure Code include greater protection for the rights of children, as both victims and perpetrators. The bill to amend the Criminal Code is currently before Parliament, while the preliminary draft of the Criminal Procedure Code is being finalized.

45. Should the bill relating to the amendment of the current Criminal Procedure Code be enacted as it is, the Code will include several measures with considerable consequences for the rights of children, such as a rise in the age of criminal liability from 13 to 15 years; the prohibition to enrol children in armed forces; heavier sentences for crimes perpetrated against children (such as abduction, torture, abuse, rape and sexual violence); the introduction of alternative measures to imprisonment, such as socio-judiciary assistance or community service; and lighter sentences for children convicted of an offence or a crime. Its enactment should be prioritized by the Government of Burundi.

Training and capacity-building on child rights for security forces and legal services personnel

46. From 6 to 12 October 2006, ONUB, in collaboration with UNICEF and other United Nations agencies, organized a training seminar on human rights and international humanitarian law for 30 officers from the First Military Region of Bujumbura.

47. Likewise, within the framework of a seminar on human rights and international humanitarian law organized from 13 to 16 August 2007, 20 officers from the First Military Region in Bujumbura received training on the provisions of the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

48. From 4 to 22 December 2006, the United Nations Integrated Human Rights Office organized a training seminar for military judges at the Military Court in Bujumbura. UNICEF facilitated training of these judges on the protection of child rights, with an emphasis on situations of armed conflict. In January 2007, 30 officers of the Internal Security Police were trained by BINUB on human rights and child protection.

Preventing and combating sexual violence against children

49. On 27 and 28 November 2006, the Ministry of National Solidarity, Human Rights and Gender, in collaboration with ONUB, organized a workshop in Bujumbura entitled "Rape in Burundian society: causes, consequences and strategies", during which the Government reiterated its determination to put in place mechanisms aimed at combating all forms of violence against women and girls.

50. Moreover, UNICEF has continued its prevention and awareness-raising activities in collaboration with local communities on sexual violence over the reporting period. Through a project for comprehensive assistance to victims of sexual violence, 397 persons including 215 children, received medical, psychosocial and legal assistance, and protection in five provinces in the country from January to June 2007.

VI. Recommendations

51. All relevant parties are called upon, as a matter of priority, to implement the recommendations contained in my previous report (S/2006/851 and Corr.1), and to take action to implement the Comprehensive Ceasefire Agreement signed on 7 September 2006. The recruitment of children by armed groups such as Palipehutu-FNL has to cease immediately without precondition. All children still associated with armed groups must be released, regardless of progress made in the implementation of the Comprehensive Ceasefire Agreement, and relevant parties should proceed with the immediate and full release of all affected children. In this regard, the Government of Burundi is urged to ratify all international instruments relating to the protection of children in situations of armed conflict, such as the Paris Commitments relating to the protection of children against recruitment and illegal use by armed forces and groups.

52. While there has been improvement since my last report, the situation of impunity for the perpetrators of violations, from which both girls and boys suffer, continued in Burundi. These violations include child recruitment and association with armed groups such as the Palipehutu-FNL, the detention of children accused of association with armed groups, and rape and sexual violence perpetrated against children. In this regard, the Government of Burundi is urged to make every effort to pursue and bring to justice anyone responsible for crimes or serious violations against children, including murder, rape and sexual violence, in order to end the culture of impunity prevailing in Burundi.

53. In reference to the 2000 Arusha Peace and Reconciliation Agreement, the 2003 Comprehensive Ceasefire Agreement, and the 2006 Comprehensive Ceasefire Agreement, the Government is urged to consider with special attention the protection of children in transitional justice mechanisms and in all provisions of the security sector reform, as provided in those agreements.

54. Lastly, the Government of Burundi, in collaboration with child protection organizations, is encouraged to facilitate the adoption of an integrated national child protection system, and donors are called upon to support child protection programmes on a long-term basis in order to enable children to benefit from sustainable dividends of peace within the peacebuilding process currently under way in Burundi.